



Texas Department of Insurance

333 Guadalupe Street P.O. Box 149104 Austin, Texas 78714-9104
512/463-6169

ID# 16040
Jh-GW

RQ-413

May 15, 1992

RECEIVED

MAY 15 1992

Opinion Committee

ATTN: Opinion Committee
The Honorable Dan Morales
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RE: Request for Information Concerning Underwriting Guidelines of Automobile Insurers in Texas

Dear General Morales:

On May 7, 1992, this agency received the attached request for all underwriting guidelines of automobile insurers in Texas which have been obtained by the Texas Department of Insurance or the State Board of Insurance. At this time, the information sought by the requestor is not in the possession of this agency. However, the Texas Department of Insurance contends that once the requested information is received by this agency, it will be exempt from public disclosure under the Texas Open Records Act, TEX. REV. CIV. STAT. ANN. art. 6252-17a, §§3(a)(1) and 3(a)(3) (Vernon Supp. 1992). This agency is requesting your determination on this information for the reasons discussed below.

The Texas Department of Insurance has subpoenaed the above-referenced information from certain insurance companies writing automobile insurance in Texas. When the information is received by this agency, it will be utilized in an investigation of the underwriting guidelines of these companies. It is anticipated that this investigation will culminate in an administrative contested case with the automobile insurers named as parties. The requested information should be withheld from public disclosure under the Open Records Act, TEX. REV. CIV. STAT. ANN. art. 6252-17a, §3(a)(3), in accordance with the reasoning in Open Records Decision Nos. 551 (1990) and OR90-475 (1990).

The Honorable Dan Morales

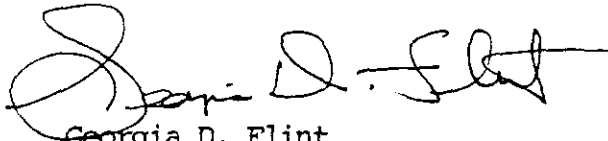
May 15, 1992

Page Two

When received by this agency, the requested information will also be exempt from public disclosure under §3(a)(1) of the Open Records Act. Each of the subpoenaed companies has asserted a trade secret privilege over the documents responsive to the subpoenas. The subpoenaed companies assert that the requested underwriting guidelines form a critical portion of their company's central operation and are therefore carefully guarded. As a result, the companies assert that this information should be considered a trade secret, and that its release would give advantage to competitors of the affected companies. The Texas Department of Insurance is currently considering the possibility of issuing a protective order in an effort to obtain the subpoenaed documents expeditiously. Regardless of this consideration, the requested information will not be a public record, pursuant to this agency's subpoena authority provided in Texas Insurance Code, art. 1.19-1, §1(d) (Vernon Supp. 1992). The requested information should be withheld from public disclosure under TEX. REV. CIV. STAT. ANN. art. 6252-17a, §3(a)(1).

Your time and attention to this matter are appreciated. Please forward all correspondence related to this matter to Jeff Hankins, Legal Assistant, Program Division, Legal Services, 110-1C.

Sincerely,

A handwritten signature in dark ink, appearing to read "Georgia D. Flint". The signature is fluid and cursive, with a large initial "G" and a long horizontal stroke at the end.

Georgia D. Flint
Commissioner of Insurance

cc: Kim Kiplin
Acting Director of Program